

2011 WL 9976840 (Ariz.Super.) (Trial Motion, Memorandum and Affidavit)
Superior Court of Arizona.
Maricopa County

In re the Matter of: JOHN D. AND JEAN MACHARDY TRUST, u/t/a September 11, 1996;
And Related Claims;
Craig Machardy, Petitioner,
v.
Jane A. Mueller, Respondent.

No. PB 2009-070493.
October 5, 2011.

Petitioner's Closing Brief

James E. Padish, State Bar No. 011653, Kellie N. Wells, State Bar No. 025169, Caldwell, Padish & Wells, PLLC, 7333 E. Doubletree Ranch Road, Suite 255, Scottsdale, Arizona 85258, Telephone: (480) 264-7470, Facsimile: (480) 307-6763, E-Mail: docket@cpwlawyers.com, Co-Counsel for Plaintiff, Craig MacHardy.

Honorable Jose S. Padilla.

A. Factual Background:

1. Jean and John MacHardy Suffered Physical and Mental Impairments Beginning in Fall 2006

John and Jane MacHardy's golden years were spent living happily in Sun City, Arizona. Like many others, they chose to leave harsh winters of the East for our warm, accommodating desert climate. They enjoyed nearly two decades of peaceful retirement until their health declined rapidly in Fall 2006, when John was ninety (90) years old and Jane was eighty-six (86).

By then, John and Jean were not able to physically care for themselves. Beginning in October 2006, Craig MacHardy and his sister, Jane Mueller, took turns travelling from Minnesota and New Jersey, respectively, to stay with their parents.

Craig flew to Arizona on October 28th and took an evening Super Shuttle van to his parent's home. He was appalled to find their normally neat and tidy home in disarray. Horrifically, there was feces throughout the house, the aftermath of his eighty-six (86) year old mother's uncontrollable projectile diarrhea and his ninety (90) year old father being too weak to attend to his wife's dire condition.

The next morning was even worse. Craig awakened to his father's yells. Clad only in white jockey underwear ("whitey-tighties", as described by Craig), John helplessly called out to Craig as bloody diarrhea streamed from Jean, covering her backside and legs. Craig was required to strip her bed clothes off and wash his elderly mother in the shower, before calling paramedis.

From that day until the end of their lives, neither John nor Jean was ever left alone to care for themselves.

Craig took extended family leave from his job in order to assist his parents. He also arranged for Meals-On-heels to provide meals for John and Jean as Jean no longer cooked. In fact, cooking was dangerous because Jean nearly burned the house down when she left the stove's burner on. Both Craig, his wife and Jean transported their parents to all doctors appointments as Jean did not drive and John (wisely), drove only infrequently, and even then, just short trips on highly-travelled streets.

Jean's severe physical problems began when Jean was hospitalized in September 2006 following an emergency admission for profound [gastrointestinal bleeding](#). She remained in the hospital for ten (10) days.¹ Her physical condition continued to deteriorate even after she was discharged from the hospital, with significant weight loss, difficulty in swallowing, fatigue and malaise. She told Dr. Kiwalski, that she was depressed.² By October 29, after Craig arrived in Arizona, she was hospitalized again for an extended period of time, twelve (12) days, once again for severe [gastrointestinal bleeding](#).

Jean's mental functioning was also diminished, as observed by family members, including her daughter, Jane Mueller, who suspected she may have had a stroke. She was essentially non-communicative with strangers, not meeting their eyes nor speaking anything more than “yes” or “no” in conversation.³

John's health in November 2006 was even worse. He was dying. He, too, was in the hospital for [gastrointestinal bleeding](#), and at ninety (90) years of age, had a well-documented history of [coronary artery disease](#), [aortic stenosis](#) and hearing loss.⁴ His adult children, Jane and Craig, informed John's doctor that he was “under a great deal of stress.”⁵ In fact, when Jane talked with medical personnel at the emergency room, she told Dr. Greenbaum that her father suffered intermittent [dementia](#).⁶

Within two weeks of his discharge from the hospital, John was pronounced fatally ill from the terminal effect of [aortic stenosis](#). Hospice of the Valley was recommended to the family on November 21.⁷ Jane called Hospice that same day to schedule an admitting visit as her father, according to her, was “declining rapidly”.⁸ John was officially certified as terminally ill by Dr. Peter Lee on November 27, 2006.⁹ Hospice services were not instituted until early December though, because John was, according to his daughter, Jane, “very upset”.¹⁰

Sadly, Jean's physical and mental condition continued to plunge. On December 5, 2006, she was taken to Dr. Lam's office by Jane and daughter-in-law, Glenda MacHardy. Dr. Lam found her anorexia to be secondary to “[major depression](#)”, and considered both force-feeding her with a tube and also urgent admission to in-patient psychiatric care for “management of her [major depression](#)”.¹¹

Jean's consulting neurologist, Dr. Hempelman, examined her earlier on November 6. Though she was conscious and knew where she was, he found her to be “not especially interested in cooperating”. He had to repeat questions several times and even then, did not seem to understand questions “even though they were fairly simple and straight-forward. such as are you right handed or left handed?” He reported concern that she suffered “some amount of dementia”.¹²

John died on January 17, 2007, nine days before his 91st birthday.

Two weeks after John died, on January 30, 2007, Jane took Jean to the doctor's office where she was examined by a nurse, Elaine Perez. Jane told Ms. Perez about her observations of some mental changes in Jean, including memory problems and severe mood swings.

Jean left Sun City with Jane in February 2007 to stay with Jane in New Jersey. In June, Jane wrote to Glenda MacHardy, Craig's wife.¹³ Jane wrote that her mother was unable to live alone because of her deteriorated mental and physical condition. In this event, Jane provided a specific example of her mother's inability to comprehend money matters, when Jean tendered just \$3.00 to pay for cookies when her shopping cart was full of groceries. A month later, on July 31, Jane e-mailed Glenda again and described yet another example of Jean's incapacity to handle her finances.¹⁴ Tellingly, Jane shared with Glenda that her mother asked Jane for “all my money and checks and I will take care of it myself.” Jane's cryptic response as told to Glenda was “I don't think so,” explaining how Jean mishandled \$100.00 given to her by Jane the preceding week.

Jean's ability to make informed, independent decisions was unquestionably gone by September 2007. According to her daughter, attorney's-in-fact and caretaker, Jane, "She gets mixed up and if she has to make a decision -- forget it."¹⁵

Dr. Pamela Wilson, a well-recognized psychologist who is particularly skilled in assessing **elderly** individuals, testified that in her opinion, that there was no doubt but that John and Jean were each physically impaired in November 2006.¹⁶ See *Exhibit "A", Transcript of Dr. Wilson's cross-examination*. According to Dr. Wilson, Jean was consistently depressed in September and October and that "the **depression** at least at times reached the level of impairment."¹⁷ Her **depression** in November 2006 "was quite severe" according to Dr. Wilson.¹⁸ Dr. Wilson explained:

Q Do you have an opinion as to when that condition came on Jean?

A It appeared to me to come on gradually sometime October thereabouts. She just seemed to become -- as she became ill in the hospital -- and she is someone who went into the hospital with one thing, developed five things, came out in worse shape, went back in. She just- you know, she really got hospital illnesses. And over that -- the course of that, she was treated with heavy duty antibiotics. She had **kidney failure**. She'd get over that. One thing after another. She gradually seemed to become more and more depressed.

During the period of time her husband gets a terminal diagnosis, which I think was not a surprise, but nevertheless that's quite a blow. So probably over a period of six to eight weeks she developed what I considered to be a very severe **depression**.

Q Yeah. I know it would seem obvious, but I'm making a record here. It isn't like she just got the flu. She was healthy one day and then came down with a virus the next. This was a steady downward slope that she was on.

A With period- -- with fluctuating periods. I mean -

Q Yes, ma'am.

A -- she would get very ill. Then she would get better. She'd seem to clear up a bit. Then she'd get sick again. She'd go downhill again. She really was up and down. And the **depression** seemed to continue. I mean, at this point I would have been looking at hospitalization if I'd been the clinical person involved.

By July 2007, Jean's **depression** was even worse. As Jane described it in her emails to Glenda MacHardy,¹⁹ not only was Jean unable to handle even small amounts of money, she was forgetful and had to be reminded to wash her hair and change her sheets. As Dr. Wilson put it:²⁰

"But clearly something is very wrong with Jean's functioning at this point."

Jean MacHardy died on April 11, 2009. She was eighty-nine (89) years old.

2. Jane Held a Position of Trust and Confidence With Her Parents and Was in a Fiduciary Relationship With Them

A.R.S. § 46-556(6)(3) defines "position of trust and confidence" when a person is any one of the following:

a) One who has assumed a duty to provide care to an incapacitated or vulnerable adult.

b) A joint tenant or tenant-in-common with an incapacitated or vulnerable adult.

c) One who is in a fiduciary relationship with an incapacitated or vulnerable adult including a *de facto* guardian or *de facto* conservator.

Jane was in a position of trust and confidence with her parents by at least September 2006. In fact, Jane admitted she held a position of trust and confidence with her parents at least by that date. After all, it's undeniable that her parents depended on her -- and Craig -- to care for them when their physical condition caused them to be unable to care for themselves or each other.

Jane also became her parent's attorney-in-fact when she accepted the Powers of Attorney executed by her parents on November 28, 2006.²¹

On that same day, Jane also became a joint owner of her parents Wells Fargo accounts.²²

Jane, along with Gary, also became Co-Trustees of the John D. and Jean MacHardy Trust following the death of John on January 17, 2007, as Jean was unable to manage her own affairs. As such, she assumed a trustee's fiduciary responsibilities.

B. Jane Breached Her Fiduciary Duty and Took Unfair Advantage of Her Position of Confidence and Trust

Jane owed a fiduciary duty to her Mother following her Father's death because she and Craig were Co-Trustees of the John D. and Jean MacHardy Trust since her mother was incapacitated by her physical and mental conditions. Indeed, she owed a fiduciary duty to her mother from the moment she signed the Power of Attorney (Ex. 4 on November 28, 2006 even though her father was still alive. That is, she was Jean's attorney-in-fact before Jean unwittingly signed the Wells Fargo bank document adding Jane to her accounts as joint owner

Even if neither the Trust nor the Power of Attorney documents imposed a fiduciary obligation on Jane (they did), she would still be construed as a fiduciary and bound by a fiduciary's obligations. A fiduciary relationship "is particularly likely to exist where there is a family relationship", [Restatement of Trusts Second, Sec. 2](#), comment b. Arizona courts have found that "the relationship between husband and wife is confidential in the highest degree". [MacRae v. MacRae](#), 37 Ariz. 307, 314 (1930). [In Re Marriage of Gerow](#), 192 Ariz. 9, 18 (CA, 1998, memorandum decision); [State Farm Mutual Automobile Insurance Co. v. Long](#), 16 Ariz. App 222, 225 (CA1, 1972); [Blazak v. Superior Court](#), 177 Ariz. 535, 539 (CA1, 1994) and [Nanini v. Nanini](#), 166 Ariz. 287 (CA2, 1990).

1. Breach of the Fiduciary Duty

"Where a confidential relationship is shown, the presumption of invalidity can be overcome only by clear and convincing evidence that the transaction was fair and voluntary. This is a difficult standard of proof." [Estate of Shumway](#), 198 Ariz. at 328 (2000). What this means is that a plaintiff in a financial exploitation action need only prove two elements: the existence of a fiduciary relationship and self-dealing by the fiduciary. *Chandos*, *supra*. Here, Jane admits to both elements: she as her mother's fiduciary and took her mother's money for herself.

For agents acting pursuant to a power of attorney, this has been taken a step further with requirement of the agent acting *solely* for the principal's benefit that has been codified in [A.R.S. §14-5506\(a\)](#). A power of attorney that authorized one to act on behalf of another creates an agency relationship. An agent is a fiduciary of the principal, [Restatement of Agency, Second, Sec. 13](#), who "is subject to a duty to his principal to act *solely* for the benefit of the principal", [Restatement of Agency, Second, Sec. 387](#) (emphasis added).

Likewise, under agency concepts, one acting on behalf of another "is bound to exercise the utmost good faith" with the burden of proof resting on the agent to show "an absence of all undue influence, advantage or imposition". [Starkweather v. Conner](#),

[44 Ariz 369, 376 \(1934\)](#). Even “(i)f the principal consents to a self-dealing transaction, the agent nevertheless must conform to the standard that the transaction be ‘fair and reasonable’ to the principal.” Comment (e) to Sec. 1.01, *Restatement of the Law of Agency Third*, Tentative Draft No. 2 (March 14, 2001).

Jane told the Court that she spent the money on “paint” and “charity.” It is painfully obvious that the only “charity” who received funds belonging to her Mother was Jane.

Once a confidential or fiduciary relationship is established, a presumption of constructive fraud is created which places the burden upon the alleged perpetrator to prove, by clear and convincing evidence, that she acted in the principal's best interest. [Chandos, supra, 18 Ariz. App at 585](#), and that the transfer was made freely and voluntarily by the alleged exploited person and with that person's full knowledge of the facts, [Eagerton v. Fleming, 145 Ariz. 289, 292 \(CA2, 1985\)](#). The duty to disclose is not obviated by a showing that the outcome of a transaction was fair to the alleged exploited person. Full disclosure of all pertinent information, including the presence of any conflicts of interest is independently required. *Estate of Weiner, 120 Ariz. 349, 352 (1978)*

Failure to provide the clear and convincing evidence renders the transactions voidable. [A.R.S. §14-5422](#); *Ciandros, supra*. In our case, that means that the addition of Jane as a joint owner to the Wells Fargo accounts is voidable.

C. Jane Is Liable Because Of Her Violations Of Arizona's Adult Protective Services Act, A.R.S. § 46-451, et seq.

1. A.R.S. § 46-456 -- Financial Exploitation of a Vulnerable Adult

In 1988, the legislature determined that **elder abuse** in Arizona was a serious problem justifying legislative intervention and enacted the Adult Protective Services Act (APSA) which criminalized **abuse** of an incapacitated or vulnerable adult designating **elder abuse** a class 5 felony. [Davis v. Zlatos, 211 Ariz. 519, 527, 123 P.3d 1156, 1164 \(Ariz. Ct. App. 2005\)](#); citing [Denton v. Superior Court, 190 Ariz. 152, 155, 945 P.2d 1283, 1286 \(1997\)](#) (“The legislature's intent and the policy behind the **elder abuse** statute are clear. Arizona has a substantial population of **elderly** people, and the legislature was concerned about **elder abuse**.”).

The statute was later amended to create a statutory civil cause of action for **elder abuse**. *Id.* at 156, 945 P.2d. at 1287.

In pertinent part, [A.R.S. §46-456\(A\)](#) provides:

A person who is in a position of trust and confidence to a vulnerable adult shall use the vulnerable adult's assets solely for the benefit of the vulnerable adult and not for the benefit of the person who is in the position of trust and confidence to the vulnerable adult or the person's relatives...

[A.R.S. § 46-456\(B\)](#) provides that criminal and civil liability exists if a:

person who is in a position of trust and confidence and who by intimidation or deception knowingly takes control, title, use or management of an incapacitated or vulnerable adult's assets or property with the intent to permanently deprive that person of the asset of property.”

1. Position of Trust and Confidence

“Position of Trust and Confidence” is defined by [A.R.S. § 46-456\(G\)\(3\)](#) as a person whom is any of the following:

- (a) one who has assumed a duty to provide care to the incapacitated or vulnerable adult;
- (b) a joint tenant or a tenant in common with an incapacitated or vulnerable adult; or

(c) one who is in a fiduciary relationship with an incapacitated or vulnerable adult including a de facto guardian or de facto conservator.

See *Davis v. Zlatos*, 211 Ariz. 519, 123 P.3d 1156 (Ariz. Ct. App. 2005).

An agent acting under a power of attorney comes within the reach of [ARS §46-456](#). The power of attorney statutes, [A.R.S. 14-5506\(a\)](#) states that if the agent fails to act in the “principal's best interest” or uses the principal's money for the agent's benefit, then the agent is “subject ...civil penalties pursuant to [A.R.S. § 46-456](#).” Best interest is defined as “the agent acts *solely* for the principal's benefit.” [A.R.S. §14-556\(f\)](#).

A Trustee also comes within the reach of [A.R.S. §46-456](#). Subsection A requires that a person in a position of trust and confidence to an incapacitated or vulnerable adult shall act for the benefit of that person to *the same extent as a trustee* pursuant to title 14, chapter 7, article 3 [Section 14-7301 et seq.].” [A.R.S. § 46-456\(A\)](#). Under Arizona law, a trustee is required to “observe the standard in dealing with the trust assets that would be observed by a prudent man dealing with the property of another.” [A.R.S. § 14-7302](#) (Supp.2004). “The first duty of any trustee is to act with undivided loyalty to the trustor.” *Shetter v. Rochelle*, 2 Ariz.App. 358, 366, 409 P.2d 74, 82 (1965), *modified by* 2 Ariz..App. 607,411 P.2d 45 (1966). Self-dealing can occur when “a trustee, acting for himself and also as trustee, seeks to consummate a deal where self interest is opposed to duty.” *Seven G. Ranching Co. v. Stewart Title & Trust of Tucson*, 128 Ariz. 590, 592, 627 P.2d 1088, 1090 (App. 1981). *Davis v. Zlatos*, 211 Ariz. 519, 527, 123 P.3d 1156, 1164 (Ariz. Ct. App. 2005).

2. Incapacitated or Vulnerable Adult

“Incapacity” means an impairment by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication or other cause to the extent that the person lacks sufficient understanding or capacity to make or communicate informed decisions concerning his person. [A.R.S. § 46-451\(A\)\(5\)](#).

“Vulnerable adult” means an individual who is over eighteen years of age or older who is unable to protect himself from **abuse**, neglect or exploitation by others because of a physical or mental impairment. [A.R.S. § 46-451\(A\)\(0\)](#).

Although the definitions of “incapacity” and “vulnerable” both refer to impairment, the APSA does not itself define the term “impairment.” The Courts apply the ordinary meaning of the word. *Mid Kansas Fed. Sav. & Loan v. Dynamic Dev. Corp.*, 167 Ariz. 122, 128, 804 P.2d 1310, 1316 (1991). An “impairment” is something that causes a “decrease in strength, value, amount, or quality.” *Websters II, New College Dictionary* 553 (Houghton Mifflin Co.2001). Other definitions have defined impairment in terms of injury, deterioration, or lessening. Webster's Third New International Dictionary 1131 (Unabridged 1993); *see also* Oxford English Dictionary (Compact Ed.1971) (“deterioration injurious lessening or weakening”). *Davis v. Zlatos* 211 Ariz. 1519, 525, 123 P.3d 1156, 1162 (Ariz. Ct. App. 2005).

The statute only requires a finding of “physical *or* mental impairment,” not both. *Davi v. Zlatos*, 211 Ariz. 519, 123 P.3d 1156 (Ariz. Ct. App. 2005). In Footnote 7 of its opinion, the *Zlatos* Court points out that “The legislature recognized that advanced age may itself cause an impairment when it defined ‘incapacity’ to mean ‘an disorder, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication...’ Although the list is not included in the accompanying definition of ‘vulnerable adult’, we see no reason to exclude any of these causes of impairment under that definition. *Id.* at Footnote 7.

It is unnecessary for the Court to find that Jean was both incapacitated *and* a vulnerable adult in order to apply the remedial provisions of Title 46. See *Davis v. Zlatos*, *supra* (“Because we conclude below that Mrs. Zlatos met the definition of a vulnerable adult, we need not address whether the evidence was sufficient to find Mrs. Zlatos was also incapacitated.”). So long as she was one or either the protection provided by [§ 46-456](#) is applicable to her.

3. Exploitation

“Exploitation” is defined as “the illegal or improper use of an incapacitated or vulnerable adult or his resources for another's profit or advantage.” [ARS §46-451 \(a\)\(5\)](#). This definition, when combined with the requirements of [ARS §46-456\(a\)](#) that a person *in a position of trust and confidence* has duties equivalent to a trustee, leads to the responsibilities of a fiduciary.

D. Craig MacHardy's Burden of Proof Is Preponderance of the Evidence

Craig MacHardy's burden of proof under [§46-456](#) is a preponderance of the evidence. [A.R.S. §§ 46-455\(L\) -456\(E\)](#). *Davis v. Zlatos*, 211 Ariz. 519, 527, 123 P.3d 1156, 1164 (Ariz. Ct App. 2005).

E. The Burden of Proof Shifts To Jane Mueller To Show By Clear and Convincing Evidence That She Did Not Violate Any Duty Owed to Her Mother

Because there is no issue regarding the existence of a confidential relationship between Jane and her mother, there is a presumption of constructive fraud which shifts the burden of proof to Jane to show, by clear evidence, that she acted with entire fairness and that her mother acted independently, with full knowledge and of her own volition free from undue influence. *In re Guardianship of Chandos*, 18 Ariz. App. 583, 585, 504 P.2d 524, 526 (Ariz. Ct App. 1972).

F. Damages

[A.R.S. §46-456\(C\)](#) provides that civil liability with damages of up to three times the amount of monetary damages may be established under either [A.R.S. § 46-456\(A\)](#) or [\(B\)](#) or both.

It is irrefuted by any credible evidence to the contrary that these transactions all occurred when Jean was both “incapacitated” by mental and physical impairments and was a “vulnerable adult” as defined by [A.R.S. §46-451\(A\)\(5\) and \(10\)](#).

Jane Mueller violated her fiduciary duties as trustee in violation of [A.R.S. §46-456](#). As such, she is liable to her brother, Craig, as the beneficiary of the John D. and Jean MacHardy Trust.

The purported addition of Jane to the Wells Fargo accounts on November 28, 2006, is invalid as Jane lacked capacity to understand the effect of adding Jane to her and John's account or was unable to make an informed decision. She was, according to Dr. Wilson, severely depressed at this time, and also physically impaired.

Jane unabashedly confessed at trial to withdrawing all of her parents funds from the Wells Fargo account beginning March 22, 2007 (approximately two months after her Father's death) through July 22, 2010 (approximately three months after her Mother's death), totaling \$225,610.89.²³

Worse, in August 2007 -- when Jean was undeniably physically and mentally incapacitated -- she admitted that she caused her Mother to cash-out Treasury Notes in the amount of \$447,633.31 that were owned solely by Jean (*i.e.*, not jointly owned) and “instruct” that these funds be deposited into the Wells Fargo account jointly held by Jane and Jean.²⁴ Jane promptly wrote a check to herself (by making it payable to her own bank account at Dime Bank) from the Wells Fargo account in the amount of \$350,000.00.²⁵

In addition to the direct deposit of the Treasury Notes redemptions of \$447,633.31, still more Treasury Note redemptions were caused by Jane to be paid to Jean in the amounts of \$75,000.00 and \$30,400.00. Two redemption checks (instead of direct

deposit into the Wells Fargo account) were made payable to Jean MacHardy but later endorsed over to Jane. Jane further admits to receiving these monies too.

In all, Jane looted \$632,007.39 from her Mother's estate. She is liable for treble this amount, specifically \$1,896,022.17 pursuant to [A.R.S. §46-456\(C\)](#), plus attorney's fees and costs pursuant to [A.R.S. §46-456\(E\)](#) (which makes the provisions of [§46-455\(H\)](#) applicable).

Jane must forfeit all benefits she would otherwise have in her Mother's estate because of her illegal conduct. See [A.R.S. §46-456\(D\)](#) (a person who violates this statute forfeits all benefits she may otherwise have with respect to the estate). That is, the house located at 9246 W. Briarwood Circle North, Sun City, Arizona, and its contents, and her deceased mother's automobile, must be awarded to the only other beneficiary, Craig MacHardy.

Conclusion

Jane's misdeeds are staggering not only because of the large amount of money she siphoned off her mother's estate but also by her incredulous inability to accept responsibility for her acts. The evidence against Jane is simply overwhelming.

For all of the reasons set forth in this brief, a verdict in Craig MacHardy's favor against Jane Mueller for her violations of Arizona's Protected Adult Statute is appropriate and necessary.

RESPECTFULLY SUBMITTED this 5 day of October, 2011.

CALDWELL, PADISH & WELLS, PLLC

By: <<signature>>

James E. Padish

Kellie N. Wells

7333 E. Doubletree Ranch Rd., Suite 255

Scottsdale, Arizona 85258

Co-Counsel for Plaintiff

ORIGINAL filed and COPY hand-delivered this 5th day of October, 2011, to:

Honorable Jose Padilla

Northwest Regional Superior Court

14264 W. Tierra Buena Lane

Surprise, AZ 85374

COPY of the foregoing mailed & e-mailed this 5th day of October, 2011, to:

William G. Fairbourn

William F. King

2901 N. Central Ave., Suite 1000

Phoenix, AZ 85012

Attorneys for Co-trustee

Jane A. Mueller

Andrew F. Gorman, Esq.

Matthew M. Jones, Esq.

Gorman & Jones, PLC

10101 W. Bell Rd., Suite 101

Sun City, AZ 85351

Attorneys for Plaintiff, Craig MacHardy

By <<signature>>

Footnotes

- 1 See Exhibit "5"
- 2 See Exhibit "7".
- 3 See Exhibit "8".
- 4 See Exhibit "9".
- 5 *Ibid.*
- 6 *Ibid.*
- 7 See Exhibit "10".
- 8 See Exhibit "11".
- 9 See Exhibit "13".
- 10 *Ibid.*
- 11 See Exhibit "15".
- 12 See Exhibit "97".
- 13 See Exhibit "17".
- 14 See Exhibit "19"
- 15 See Exhibit "21".
- 16 See Exhibit "A", transcript of Dr. Wilson's testimony, pg. 6-7.
- 17 *Id.* pg. 6.
- 18 *Id.* pg. 7.
- 19 See Exhibits 19, 20 and 21.
- 20 See Exhibit A, transcript, page 18.
- 21 See Exhibits 3, 4.

- [22](#) See Exhibit 14.
- [23](#) See Exhibit 93 (plaintiff's damage calculation containing stipulated dates and amounts of withdrawals from Wells Fargo accounts); See also Exhibits 22-68 (Wells Fargo monthly statements).
- [24](#) See Exhibit 20 (Legacy Direct transaction request); See also Exhibit 28 (August 2007 Wells Fargo statement)
- [25](#) See Exhibit 23 (cancelled check)

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